

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF MONTANA)	
)	DOCKET NO.: PT-2003-6
Appellant,)	
)	
-vs-)	
)	
CLAYTON R. JOHNSON)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
)	<u>FOR JUDICIAL REVIEW</u>
Respondent.)	

The above-entitled appeal was heard on April 15, 2004 in the City of Helena, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The Appellant, Department of Revenue (DOR), initiated this appeal from a decision of the Tax Appeal Board of Lewis and Clark County. At the hearing, the Department of Revenue was represented by Randall Kaiser, commercial appraiser, and Kory Hofland, Area Manager. Clayton R. Johnson, the Respondent in this appeal, appeared on his own behalf. Testimony was presented and exhibits were received from both parties. The Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by

the parties, finds and concludes that the value proposed by the Department of Revenue is supported by the record and should be accepted for tax year 2003.

STATEMENT OF THE ISSUE

The taxpayer contends that the DOR has inequitably appraised the land portion of his assessment, and, specifically, the one-acre on which he maintains his residence. While Taxpayer has a mobile home and other improvements on his property, they are not involved in this appeal.

FACTUAL BACKGROUND

1. The subject property is a tract of land constituting 20.47 acres that is located on Canyon Ferry Road in Lewis and Clark County. The physical address of the property is 6160 Canyon Ferry Drive and is denominated in the property tax records as geocode 890-18-1-02-30-0001.
2. The 20+ acre tract is largely undeveloped but for the taxpayer's residence and a few outbuildings. DOR's exhibit C contains several photos of the property and the improvements thereon. However, this appeal deals only with the land values, and specifically the one-acre portion which is assessed at market value when the remainder is assessed as Non-Qualified Agricultural land. ARM 42-20-655
3. Taxpayer initiated an AB-26 review of the assessment. He stated

that the value for the one-acre site was too high. DOR appraiser Tracie Grimm reviewed the assessment and stated that "sales studies" of DOR supported the values in the assessment, and made no adjustment.

4. Taxpayer then initiated an appeal to the County Tax Appeal Board. He specifically challenged the one acre site that his residence was on, stating in his appeal that there was a "steep hillside" adjacent to his residence. The County Board reduced the "first acre" rate from \$33,000 to \$16,500, stating, "The area involved as home site value for the one acre has a market value of \$16,500. 2-1 vote."

TAXPAYER'S CONTENTIONS

Mr. Johnson has owned this tract for 27 years and has made his home on the property during that length of time. He has seen quite a lot of changes in the "neighborhood" as development has taken place throughout the area. The prices that people seem willing to pay for home sites do not make a lot of sense to him. He feels that in reviewing some of the values there is a "hype" factor that needs to be dismissed.

Mr. Johnson also wanted the Board to know that the specific home site that he had developed has very steep terrain on it, which would make it unusable for either building or agricultural pursuits.

DOR CONTENTIONS

DOR submitted several exhibits to support its contention that the appraisal value used in Mr. Johnson's property was within the norm for the area. The primary document for this proposition is Exhibit D, which is the result of the computer review and regression analysis of similar properties within Neighborhood 328. DOR also submitted maps of the area with various sales noted. (State's Ex.E). It is apparent from these submissions, according to DOR, that Mr. Johnson's property is in an area experiencing growth and increasing values. The data on other sales indicate that the taxpayer's property is not unreasonably valued when all factors are considered. The duty of the DOR appraisal is to reflect fair market value. Section 15-8-111, MCA.

Under the mass appraisal methodology used by DOR, the property is a part of Neighborhood 328, which is a group of suburban tracts with similar, though not identical, characteristics. In Neighborhood 328, as delineated in DOR's Exhibit D, the "base rate" or "first acre" is \$33,000, and the remainder of the acreage, referred to as the "residual value" by DOR, is valued at \$1,400 per acre. Applying this formula to taxpayer's property would result in a market value of \$60,258 which is derived as follows; "base rate" or "first acre" is \$33,000; the remaining acres of taxpayer's tract are 19.47 acres to which the "residual value" of \$1400 would apply for a total of \$27,258. The combination then of the "base rate" and the "residual value" would amount to a market value of \$60,258.

BOARD DISCUSSION

The taxpayer's property is in an area that is experiencing a substantial increase in land values. When he moved to this location some 27 years ago, he had few neighbors and the property was relatively cheap. That, of course, has changed. Market surveys conducted by the DOR (Exhibit D) indicate that a 20-acre tract in this area could expect to sell for approximately \$60,000. According to this computer-based regression analysis, the value is achieved by applying a "first-acre" rate of \$33,000, and then a rate of \$1,400 for each additional acre.

Using this mass appraisal methodology, this tract projects a market value of \$60,258. On an unweighted basis, this amounts to \$2997 per acre and appears to be well within the amounts reflected in the market survey conducted by DOR. (DOR's Exhibit D) The market study took place from January of 1996 to January of 2000 and within that time period there were at least two "paired" sales. A "paired" sale is one where a certain parcel sells more than once during the period in which the study takes place. One "paired" sale took place in August of 1997 and involved almost 11 acres of property: it sold first in August of 1997 for \$28,000 or \$2776 per unweighted acre; 37 months later, in August of 2000, the identical parcel sold for \$38,000 or \$3,767 per unweighted acre.

A similar increase occurred on another parcel in the area, which was nearly 15 acres in size. It first sold in August of 1998 for \$46,000 or \$3,071 per acre; two years to the month later the identical acreage sold for \$60,000 or \$4,005 per unweighted acre. These "paired" sales demonstrate that there was an active market in which values were increasing during the relevant period.

However, the subject tract qualifies as agricultural land because it is contiguous land greater than 20 acres in size. It does not meet the income test to qualify for the lowest agricultural assessment rate provided in statute. Section 15-7-202(1), MCA. Instead, it is classified as "Non-qualified Agricultural" as provided in 15-6-133(3), MCA; under this designation the "first acre" is appraised at market rates and the remainder are assessed at Grade 7 agricultural rates. ARM 42.20.134 Applying the rules for Non-qualified Agricultural land to this property, the following values result: first acre is at market rate: \$33,000; remaining 19.47 acres at the rate for non-qualified agricultural land of \$46.22 for a total of \$900; total land value for the tract: \$33,900.

DOR presented the per acre values of a number of sales in the close proximity of the taxpayer's tract (Exhibits D and E). These 12 sales show per acre values ranging from \$3,088 to \$16,069 after having been adjusted for the time of the sale. Taxpayer's property, on a per acre market value basis, comes in at just about \$3,000 per

acre (\$60,000 market value divided by 20.47 acres). The highest value of the twelve properties (\$16,069 per acre) illustrates that the market pays the most for the first increment, and less for the succeeding one. In any event, an examination of these 12 sales shows that the values assigned to taxpayer's property are well within the average for the area he resides in.

CONCLUSIONS OF LAW

1. **§15-2-301, MCA**, The State Tax Appeal Board has jurisdiction over this matter.
2. **§15-8-111, MCA**, Assessment - market value standard - exceptions,
(1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. **§15-2-301, MCA**, Appeal of county tax appeal board decisions,
(4) *In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.*
4. **§15-2-301 MCA**, Appeal of county tax appeal board decisions,
(4) *...The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.*
5. **ARM 42.20.655** Valuation of One Acre Beneath Improvements on Nonqualified Agricultural Land (1) *A market value determination*

will be made for each one acre beneath each residence which is located on agricultural land ...

6. **ARM 42.20.655** Valuation of One Acre Beneath Improvements on Nonqualified Agricultural Land (2) (b) *If the one acre is located on a nonqualified agricultural or forest land operation that is near a suburban area, the market value assigned to the one acre area will be consistent with the market value for surrounding suburban land.*

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property land value shall be entered on the tax rolls of Lewis and Clark County by the local Department of Revenue office at a 2003 tax year figure of \$33,900 reflecting a "first acre" market value of \$33,000 and the remaining acreage under non-qualified agricultural values of \$900.

Dated this 17th day of May, 2004.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of May 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Mr. Clayton R. Johnson
6160 Canyon Ferry Road
Helena, MT. 59602

Mr. Randall Kaiser
Lewis and Clark County Appraiser Office
P.O. Box 1722
Helena, MT. 59624-1722

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

Ms. Dorothy Thompson
Property Assessment Division
Department of Revenue
Helena, MT. 59620

Mr. Robert Cummins
Chairman
Lewis and Clark County Tax Appeal Board
One North Last Chance Gulch
Helena, MT. 59601

DONNA EUBANK
Paralegal